

EIN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

No. 3:22-cv-202

LAWRENCE EVERETT,

Plaintiff

v.

P.F. CHANG'S CHINA BISTRO, INC. and
JOHN DOE,

Defendants.

NOTICE OF REMOVAL

Defendant P.F. Chang's China Bistro, Inc. (hereinafter, "Defendant") files this Notice of Removal pursuant to 28 U.S.C. §§ 1441 and 1446. Defendant states the following in support of its removal:

1. Plaintiff commenced this action on March 31, 2022 against Defendant in the Mecklenburg County Superior Court, State of North Carolina, by filing a Complaint styled *Lawrence Everett v. P.F. Chang's China Bistro, Inc. and John Doe*, File No. 22 CVS 005186 (the "State Court Action").

2. Plaintiff served Defendant with the Summons and Complaint on April 6, 2022 through its registered agent, CT Corporation.

3. Defendant files this Notice of Removal within thirty (30) days from service of process of the Summons and Complaint which sets forth claims for relief upon which this proceeding is based, pursuant to 28 U.S.C. § 1441 and 1446(b)(1).

4. All process, pleadings, and orders filed in the State Court action, which were served on Defendant are attached as Exhibits 1 and 2.

5. Defendant has not yet filed an answer or other responsive pleading in the State Court Action. In filing this Notice of Removal, Defendant does not waive any defense or counterclaim it may have.

6. Plaintiff is a citizen and resident of Mecklenburg County, North Carolina.

7. Defendant is a Delaware corporation with its principal place of business in Scottsdale, Arizona.

8. Plaintiff is asserting a claim for negligence based on alleged burn at a P.F. Chang's location in Charlotte, North Carolina. Plaintiff alleges that his "injuries and resultant sequelae caused by the Defendants negligence have resulted in substantial damages, both economic and non-economic, including but not limited to, medical bills, costs and expenses; past, present and future economic loss; past, present and future physical pain and suffering; permanent scarring; and loss of fill enjoyment of life." Upon information and belief, Plaintiff's alleged damages are in excess of \$75,000.00.

9. Plaintiff also named a "John Doe" (an alleged employee of Defendant) as a defendant. However, "[i]n determining whether a civil action is removable on the basis of [diversity jurisdiction], the citizenship of defendants sued under fictitious names shall be disregarded. 28 U.S.C.A. § 1441(b)(1).

10. The District Courts of the United States have original jurisdiction of this action pursuant to 28 U.S.C. § 1332. There is complete diversity of citizenship between Plaintiff and Defendant (disregarding the fictitiously named defendant "John Doe") and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

11. Service of this Notice of Removal is being made on the Plaintiff as shown by the attached certificate of service.

12. As required by 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendant will serve Plaintiff and file with the Mecklenburg County Superior Court a Notice of Filing of Notice of Removal.

WHEREFORE, Defendant prays that this action be removed to this Court for all further proceedings, as though this action had originally been instituted in this Court. Defendant further requests that this Court assume jurisdiction over this action and proceed to a final determination thereof.

This the 6th day of May, 2022.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page
CHRISTOPHER A. PAGE
N.C. State Bar No. 19600
MATTHEW C. BURKE
N.C. State Bar No. 52053
3101 Glenwood Avenue, Suite 200
Raleigh, North Carolina 27612
Telephone: (919) 782-6860
Facsimile: (919) 782-6753
E-mail: chris.page@youngmoorelaw.com
Email: matthew.burke@youngmoorelaw.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and served the attorney listed below by U.S. Mail:

William H. Harding, Esq.
Law Offices of William H. Harding, PLLC
9115 Harris Corners Parkway, Suite 220
Charlotte, NC 28269
Attorneys for Plaintiff

This the 6th day of May, 2022.

YOUNG MOORE AND HENDERSON, P.A.

BY: /s/ Christopher A. Page
CHRISTOPHER A. PAGE
N.C. State Bar No. 19600
MATTHEW C. BURKE
N.C. State Bar No. 52053
3101 Glenwood Avenue, Suite 200
Raleigh, North Carolina 27612
Telephone: (919) 782-6860
Facsimile: (919) 782-6753
E-mail: chris.page@youngmoorelaw.com
Email: matthew.burke@youngmoorelaw.com
Attorneys for Defendant